

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

RICHARD MILLS,

Petitioner,

v.

ORDER
06-CV-842A

SUPERINTENDENT T. POOLE,

Respondent.

Petitioner Richard Mills filed the instant petition for habeas corpus relief, pursuant to 28 U.S.C. § 2254, on December 20, 2006. The case was referred to Magistrate Judge Victor E. Bianchini, pursuant to 28 U.S.C. § 636(b)(1), on June 12, 2007. On August 24, 2007 and October 11, 2007, petitioner filed motions for summary judgment (Docket Nos. 42 and 49). On October 26, 2007, Magistrate Judge Bianchini filed a Report and Recommendation, recommending that petitioner's motions for summary judgment be denied with prejudice, and that he be denied a certificate of appealability (Docket No. 51).

Petitioner filed objections to the Report and Recommendation on November 2, 2007 (Docket No. 54), November 8, 2007 (Docket No. 58), and November 13, 2007 (Docket No. 60). Respondent filed a response to the objections on November 26, 2007 (Docket No. 63).

Pursuant to 28 U.S.C. § 636(b)(1), this Court must make a de novo determination of those portions of the Report and Recommendation to which objections have been made. Upon a de novo review of the Report and Recommendation, and after reviewing the submissions of the parties, the Court adopts the proposed findings of the Report and Recommendation.

Accordingly, for the reasons set forth in Magistrate Judge Bianchini's Report and Recommendation, the Court denies petitioner's motions for summary judgment, with prejudice, and denies a certificate of appealability.

The case is referred back to Magistrate Judge Bianchini for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: January 14, 2008